

REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claim 1 has been cancelled and is replaced by new claim 22. In addition, claims 2-21 have been amended for clarity.

The Examiner has rejected claims 1-21 under 35 U.S.C. 102(e) as being anticipated by International Patent Application No. WO 01/01316 to Evans et al. The Examiner has further rejected claims 3, 4, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of U.S. Patent 5,502,766 to Boebert et al. In addition, the Examiner has rejected claims 7-10 and 17-20 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of U.S. Patent 5,034,980 to Kubota. Moreover, the Examiner has rejected claims 8, 9, 18 and 19 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of Kubota, and further in view of Boebert et al. Finally, the Examiner has rejected claims 10 and 20 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of Kubota, and further in view of U.S. Patent 4,281,216 to Hogg et al.

The Evans et al. reference discloses a system, method and article of manufacture for an electronic software distribution, post-download payment scheme with encryption capabilities, in which software is first at least partially encrypted ("damaged") (800) and is then distributed (e.g., made available for download by a

user, 804, 806). A user is then able to submit payment (808), after which the user is provided with the appropriate decryption key (810).

The subject invention relates to protecting protected material after receipt of the protected material. In particular, the method and apparatus of the subject invention receives the protected material undamaged. Then, as claimed in claim 1, the protected material is damaged (e.g., enciphered), and the damaged version is recorded. During the damaging process, the apparatus verifies the authorization of the protected material. Based on the results of the verification, the apparatus repairs the damaged version. In a further embodiment, the undamaged protected material is allowed to be rendered (e.g., played back) during the verification process.

Applicant submits that Evans et al. neither discloses nor suggests distributing the software "undamaged", wherein the damaging is being performed on receipt of the undamaged software, and that the damaged software is then stored pending verification of authorization, whereupon the damaged software is repaired.

The Boebert et al. patent discloses a data enclave and trusted path system in which data is "damaged" prior to being stored on removable media. However, Applicant submits that Boebert et al. does not supply that which is missing from Evans et al., i.e., distributing the software "undamaged", wherein the damaging

is being performed on receipt of the undamaged software, and that the damaged software is then stored pending verification of authorization, whereupon the damaged software is repaired. In fact, it appears that all data with respect to Boebert et al. is enciphered prior to any transmission or storage.

The Kubota patent discloses a microprocessor for providing copy protection, in which "A given digital data is exclusively OR'ed with a given encryption code to provide an encrypted output. Further if this encrypted output is again exclusively OR'ed with the same encryption code, the original input is obtained." (col. 4, lines 46-52).

However, Applicant submits that the Kubota patent does not supply that which is missing from Evans et al., i.e., distributing the software "undamaged", wherein the damaging is being performed on receipt of the undamaged software, and that the damaged software is then stored pending verification of authorization, whereupon the damaged software is repaired.

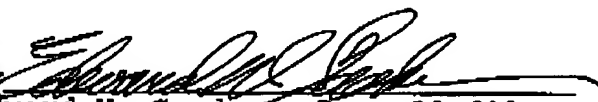
The Hogg et al. patent discloses key management for encryption/decryption systems in which a key word is destroyed "responsive to an unauthorized attempt to read said at least one key word" or, alternatively, "responsive to said at least one key word being transferred from said keyloading means to a predetermined number of the security modules." (col. 12, lines 27-40).

However, Applicant submits that Hogg et al. does not supply that which is missing from Evans et al. and/or Kubota, i.e., distributing the software "undamaged", wherein the damaging is being performed on receipt of the undamaged software, and that the damaged software is then stored pending verification of authorization, whereupon the damaged software is repaired.

In view of the above, Applicant believes that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicant believes that this application, containing claims 2-22, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by   
Edward W. Goodman, Reg. 28,613  
Attorney  
Tel.: 914-333-9611